



# California Fair Political Practices Commission

March 9, 1989

Gordon C. Phillips  
Redondo Beach City Attorney  
415 Diamond Street  
Redondo Beach, CA 90277

Re: Your Request for Advice  
Our File No. I-88-458

Dear Mr. Phillips:

You have requested advice regarding application of the mass mailing provisions of the Political Reform Act (the "Act")<sup>1/</sup>, as amended by Proposition 73 on the June 7, 1988 ballot.

## QUESTIONS

1. Do the mass mailing provisions of Proposition 73 prohibit the name or other references to the elected city clerk from appearing on brochures which will be made available in public and private places?
2. May such brochures be mailed to over 200 persons?

## CONCLUSIONS

1. A mass mailing of brochures prepared by the office of the city clerk which contain the name or other references to the elected city clerk may not be sent at public expense. However, such materials may be made available in response to an unsolicited request. Members of the public who come to an agency's offices or to a meeting and who pick up materials for themselves are deemed to have made an unsolicited request for those materials. This exception does not apply to materials made available at private locations where a meeting is not being held.

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<sup>1/</sup> Government Code Sections 81000-91015. All statutory references are to the Government Code unless otherwise indicated. Commission regulations appear at 2 California Code of Regulations Section 18000, et seq. All references to regulations are to Title 2, Division 6 of the California Code of Regulations.

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2. The brochures may not be mailed to over 200 persons at public expense.

#### FACTS

You have provided us with a copy of a brochure entitled the "City of Redondo Beach Voter Guide." The brochure has been prepared by the City Clerk for distribution in public libraries, city hall, and other public and private locations.

#### ANALYSIS

Section 89001 provides that no mass mailing shall be sent at public expense. Regulation 18901 clarifies that the purpose of Section 89001 is to prevent elected officers from using public funds to send out newsletters and other mass mailings.

Regulation 18901(e) provides:

(e) A newsletter or other mass mailing is not prohibited by Government Code Section 89001 if it meets all of the following criteria:

(1) The stationery, form and envelopes used for the mailing are the standard stationery, forms and envelopes of the agency or committee of the agency; and

(2) The name of an elected officer who is affiliated with the agency or committee appears in the standard letterhead or logotype of the stationery, forms or envelopes of the agency, a committee of the agency, or the elected official and the newsletter or mass mailing is not otherwise prohibited under subdivision (c).

As used in this subdivision, the term "letterhead or logotype" includes a listing of agency or committee officials or members, in which all who are listed appear in the same typeface and type size and location in the layout of the newsletter or other mass mailing.

As used in this subdivision, the term "standard letterhead or logotype" refers to any regularly used by the agency, subunit or the elected officer. Provided, however, that where a newsletter does not use the agency's standard stationery letterhead, a roster listing containing the names of all elected officers in the agency may be used in the newsletter in place of the agency's standard stationery letterhead.

Regulation 18901(e) (emphasis added).

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The reports you have provided are not on letterhead or forms of the agency. Nor does the listing of one elected officer qualify this as a "roster listing". Accordingly, the document may not be sent in a mass mailing at public expense.

The term "mass mailing" means over two hundred substantially similar pieces of mail, but does not include a form letter or other mail which is sent in response to an unsolicited request, letter or other inquiry. (Section 82041.5.) The question becomes whether any of the circumstances you have described are situations in which the document would be considered to be sent in response to an unsolicited request.

Regulation 18901(h) provides in pertinent part:

(h) As used in this regulation, "unsolicited" specific request means a communication which is not requested or induced by the elected officeholder or any third person acting at his or her behest....

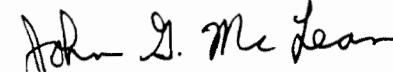
Members of the public who come to an agency's offices or to a meeting and who pick up materials for themselves will be deemed to have made an unsolicited specific request for those materials.

Thus, materials which members of the public pick up for themselves at a meeting or at public libraries, city hall or other city offices will be considered sent in response to an unsolicited request. This exception does not apply to materials made available at private locations where a meeting is not being held.

I trust this answers your questions. If you have any further questions, please contact me at (916) 322-5901.

Sincerely,

Diane M. Griffiths  
General Counsel



BX: John G. McLean  
Counsel, Legal Division

DMG:JGM:ld



CITY OF REDONDO BEACH  
CALIFORNIA

415 DIAMOND STREET  
REDONDO BEACH, CALIFORNIA 90277

December 7, 1988

VIA FEDERAL EXPRESS

State of California  
Fair Political Practices Commission  
P. O. Box 807  
Sacramento, CA 95804-0807

Re: Proposition 73 advise

Gentlemen:

The City Clerk of the City of Redondo Beach, is an elected official, and the Chief Elections Officer for the City. He has prepared a brochure for distribution in public libraries, city hall, and other public and private locations. The brochure will not be mailed.

The purpose of the document is to give the public general information concerning the general municipal election to be held on March 7, 1989, including the offices for which an election will be held, proposed charter amendments, registration dates, dates to obtain absentee ballot, qualifications for offices, when nomination papers may be obtained and when they must be filed. A copy of the guide is enclosed for your review.

The document also seeks volunteers to serve as Precinct Officers and to work in polling places.

The City Clerk is under no legal obligation to provide the general information to provide such a brochure, but he is under an obligation to obtain adequate staffing for the polling places.

ISSUE

1. Does Proposition 73 prohibit the name of the elected City Clerk, who is the Chief Elections Officer of the City, from appearing on over 200 brochures which will not be mailed but be placed in public and private locations?

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2. Does Proposition 73 prohibit the reference to the City Clerk, who is elected and is the Chief Elections Officer of the City, from appearing on over 200 brochures which will not be mailed but be placed in public and private locations?
3. If the answer to question #1 or #2 is "NO," could over 200 of the brochures be mailed?

Very truly yours



Gordon C. Phillips  
City Attorney

GCP:N

Enclosure



# California Fair Political Practices Commission

December 9, 1988

Gordon C. Phillips  
City Attorney  
415 Diamond Street  
Redondo Beach, CA 90277

Re: 88-458

Dear Mr. Phillips:

Your letter requesting advice under the Political Reform Act was received on December 8, 1988 by the Fair Political Practices Commission. If you have any questions about your advice request, you may contact John McLean, an attorney in the Legal Division, directly at (916) 322-5901.

We try to answer all advice requests promptly. Therefore, unless your request poses particularly complex legal questions, or more information is needed, you should expect a response within 21 working days if your request seeks formal written advice. If more information is needed, the person assigned to prepare a response to your request will contact you shortly to advise you as to information needed. If your request is for informal assistance, we will answer it as quickly as we can. (See Commission Regulation 18329 (2 Cal. Code of Regs. Sec. 18329).)

You also should be aware that your letter and our response are public records which may be disclosed to the public upon receipt of a proper request for disclosure.

Very truly yours,

*Kathryn E. Donovan*  
Diane M. Griffiths  
General Counsel

DMG:plh